

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

CURTIS J. WOOLWINE,

Plaintiff,

v.

CIVIL ACTION NO. 5:09-cv-00575

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

By *Standing Order* (Document No. 4) entered on May 21, 2009, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). On July 16, 2010, the Magistrate Judge submitted *Proposed Findings and Recommendation* (Document No. 17) wherein it is recommended that this Court reverse the final decision of the Commissioner, remand this case for further proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g) and dismiss this action from the Court's docket. Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's

Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a *de novo* review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the PF&R in this case were due on August 2, 2010. To date, no objections have been filed.

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the relief requested in Plaintiff’s Brief in Support of Claim (Document No. 13) be **GRANTED**, to the extent that it seeks remand, and that the relief requested in Defendant’s Brief in Support of Judgment on the Pleadings (Document No. 14) be **DENIED**. The Court further **ORDERS** that the final decision of the Commissioner be **REVERSED**, this case **REMANDED** for further proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g), and that this action be **DISMISSED** from the Court’s docket.

The Court **DIRECTS** the Clerk to send a certified copy of this *Memorandum Opinion and Order* to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: August 12, 2010


IRENE C. BERGER, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA